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6 Attorney for Plaintiff,
7 **GAMETEK LLC**

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GAMETEK LLC,

Plaintiff,
v.

FACEBOOK, INC.; FACEBOOK
OPERATIONS, LLC; FACEBOOK
PAYMENTS, INC.; FACEBOOK SERVICES,
INC.; 6WAVES LLC f/k/a LOLAPPS INC.
d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES;
6WAVES TECHNOLOGIES, LLC f/k/a
LOLAPPS INC. d/b/a 6WAVES LOLAPPS
d/b/a SIX WAVES; 6WAVES US, INC. f/k/a
LOLAPPS INC. d/b/a 6WAVES LOLAPPS
d/b/a SIX WAVES; BIG VIKING GAMES
INC. f/k/a TALLTREE GAMES; BUFFALO
STUDIOS LLC; CIE GAMES, INC.;
CROWDSTAR INTERNATIONAL LIMITED;
CROWDSTAR INC.; CROWDSTAR
NETWORK, LLC; ELECTRONIC ARTS INC.
d/b/a EA INTERACTIVE d/b/a PLAYFISH
d/b/a POGO GAMES; FUNZIO, INC.;
FUNZIO USA, INC.; ROCKYOU, INC.; SIX
WAVES INC. f/k/a LOLAPPS INC. d/b/a
6WAVES LOLAPPS d/b/a SIX WAVES;
THEBROTH INC.; WOOGA GMBH; ZYNGA
INC.; and DIGITAL CHOCOLATE, INC.

Defendants.

Case No.: 3:12-cv-00501-BEN-RBB

**FIRST AMENDED COMPLAINT FOR
INFRINGEMENT OF U.S. PATENT NO.
7,076,445**

DEMAND FOR JURY TRIAL

Complaint Filed: February 28, 2012
Trial Date: not set

This is an action for patent infringement in which GAMETEK LLC submits this First Amended¹ Complaint against Defendants named herein, namely FACEBOOK, INC.; FACEBOOK OPERATIONS, LLC; FACEBOOK PAYMENTS, INC.; FACEBOOK SERVICES, INC.; 6WAVES LLC f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES; 6WAVES TECHNOLOGIES, LLC f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES; 6WAVES US, INC. f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES; BIG VIKING GAMES INC. f/k/a TALLTREE GAMES; BUFFALO STUDIOS LLC; CIE GAMES, INC.; CROWDSTAR INTERNATIONAL LIMITED; CROWDSTAR INC.; CROWDSTAR NETWORK, LLC; ELECTRONIC ARTS INC. d/b/a EA INTERACTIVE d/b/a PLAYFISH d/b/a POGO GAMES; FUNZIO, INC.; FUNZIO USA, INC.; ROCKYOU, INC.; SIX WAVES INC. f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES; THEBROTH INC.; WOOGA GMBH; ZYNGA INC.; and DIGITAL CHOCOLATE, INC. (collectively “Defendants”), as follows:

THE PARTIES

1. GAMETEK LLC (“GAMETEK” or “Plaintiff”) is a California limited liability company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA 92660.

2. On information and belief, FACEBOOK, INC. and FACEBOOK SERVICES, INC. are Delaware corporations with a place of business at 1601 Willow Rd, Menlo Park, CA 94025.

3. On information and belief, FACEBOOK OPERATIONS, LLC is a Delaware limited liability company with a place of business at 1601 Willow Rd, Menlo Park, CA 94025.

¹ GameTek is filing this First Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(1).

1 4. On information and belief, FACEBOOK PAYMENTS, INC. is a Florida corporation
2 with a place of business at 1601 Willow Rd, Menlo Park, CA 94025. FACEBOOK, INC.;
3 FACEBOOK SERVICES, INC. Hereinafter, FACEBOOK OPERATIONS, LLC; and FACEBOOK
4 PAYMENTS, INC. are collectively referred to as “FACEBOOK.”

5 5. On information and belief, Defendants 6WAVES LLC f/k/a LOLAPPS INC. d/b/a
6 6WAVES LOLAPPS d/b/a SIX WAVES; 6WAVES TECHNOLOGIES, LLC f/k/a LOLAPPS INC.
7 d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES are Delaware limited liability companies with a place
8 of business at 116 New Montgomery St., Suite 700, San Francisco, CA 94105.

9 6. On information and belief, Defendant 6WAVES US, INC. f/k/a LOLAPPS INC.
10 d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES is a Delaware corporation with a place of business at
11 116 New Montgomery St., Suite 700, San Francisco, CA 94105.

12 7. On information and belief, SIX WAVES INC. f/k/a LOLAPPS INC. d/b/a 6WAVES
13 LOLAPPS d/b/a SIX WAVES is a British Virgin Island Corporation with place of business at Suite
14 601, 6/F, Caroline Centre, Lee Gardens Twim 28 Yun Ping Road, Causeway Bay, Hong Kong.
15 Hereinafter, 6WAVES LLC f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES;
16 6WAVES TECHNOLOGIES, LLC f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX
17 WAVES; 6WAVES US, INC. f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES;
18 SIX WAVES INC. f/k/a LOLAPPS INC. d/b/a 6WAVES LOLAPPS d/b/a SIX WAVES are
19 collectively referred to as “SIX WAVES.”

20 8. On information and belief, BIG VIKING GAMES INC. f/k/a TALLTREE GAMES
21 (“BIG VIKING”) is a Canadian corporation with a place of business at 124 Chantry Place #205
22 London, Ontario N6G5A5 Canada.

1 9. On information and belief, BUFFALO STUDIOS LLC (“BUFFALO STUDIOS”) is
2 a California corporation with a place of business at 1634 19TH ST, Santa Monica, CA 90404.

3 10. On information and belief, CIE GAMES, INC. (“CIE”) is a Delaware corporation
4 with a place of business at 111 W Ocean Blvd. # 1800 Long Beach, CA 90802-7936.

5 11. On information and belief, CROWDSTAR INTERNATIONAL LIMITED is an Irish
6 corporation with a place of business at 330 Primrose Road Suite 306, Burlingame, CA 94010.
7 Further, on information and belief, CROWDSTAR INC. is a Delaware Corporation with a place of
8 business at 330 Primrose Road Suite 306, Burlingame, CA 94010.

9 12. On information and belief, CROWDSTAR NETWORK, LLC is a Delaware limited
10 liability corporation with a place of business at 330 Primrose Road Suite 306, Burlingame, CA
11 94010. CROWDSTAR INTERNATIONAL LIMITED; CROWDSTAR INC.; and CROWDSTAR
12 NETWORK, LLC are collectively referred to as “CROWDSTAR.”

13 13. On information and belief, ELECTRONIC ARTS INC. d/b/a EA INTERACTIVE
14 d/b/a PLAYFISH d/b/a POGO GAMES (“EA”) is Delaware corporation with a place of business at
15 209 Redwood Shores Parkway, Redwood City, CA 94065.

16 14. On information and belief, FUNZIO, INC. is a Delaware corporations with a place of
17 business at 500 Howard Street, Suite 425, San Francisco, CA 94105. FUNZIO, INC. and FUNZIO
18 USA, INC. are collectively referred to as “FUNZIO.”

19 15. On information and belief, FUNZIO USA, INC. is a Delaware corporation with a
20 place of business at 500 Howard Street, Suite 425, San Francisco, CA 94105. Hereinafter, FUNZIO,
21 INC. and FUNZIO USA, INC. are collectively referred to as “FUNZIO.”

22 16. On information and belief, ROCKYOU, INC. (“ROCKYOU”) is a Delaware
23 corporation with a place of business at 425 Broadway Street, Redwood City, CA 94063.

17. On information and belief, THEBROTH INC. (“THEBROTH”) is a Delaware corporation with a place of business at 720 Market Street, 3rd Floor, San Francisco, CA 94102.

18. On information and belief, WOOGA GMBH (“WOOGA”) is a German corporation with a place of business at Saarbrücker Straße 38, 10405 Berlin, Germany.

19. On information and belief, ZYNGA INC. ("ZYNGA") is a Delaware corporation with a place of business at 699 8th St, San Francisco, CA 94103.

20. On information and belief, DIGITAL CHOCOLATE, INC. ("DIGITAL CHOCOLATE") is a Delaware corporation with a place of business at 1855 South Grant Street, 2nd Floor, San Mateo, California 94402.

JURISDICTION AND VENUE

21. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

22. On information and belief, the Defendants are subject to this Court's specific and/or general personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at least to their substantial business in California, including related to the infringements alleged herein. Further, on information and belief, Defendants have interactive websites and/or games comprising infringing methods, which are at least used in and/or accessible in California. Further, on information and belief, Defendants regularly conduct and/or solicit business, engage in other persistent courses of conduct, and/or derive substantial revenue from goods and services provided to persons and/or entities in California.

23. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Without limitation, on information and belief, Defendants are subject to personal jurisdiction in this district. On information and belief, the Defendants are subject to this Court's specific and/or general

1 personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at least to
 2 their substantial business in this district, including related to the infringements alleged herein.
 3 Further, on information and belief, Defendants have interactive websites and games comprising
 4 infringing methods, which are at least used in and/or accessible in this district. Further, on
 5 information and belief, Defendants regularly conduct and/or solicit business, engage in other
 6 persistent courses of conduct, and/or derive substantial revenue from goods and services provided to
 7 persons and/or entities in this district.
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9 **JOINDER**

10 24. On information and belief, joinder of these Defendants is proper under 35 U.S.C. §
 11 299, including at least due to the joint involvement of FACEBOOK (e.g., at www.facebook.com)
 12 with the management of at least each of Barn Buddy, Bingo Blitz, Car Town, CityVille, Crime City,
 13 Empires and Allies, FarmVille, Fish World, Happy Aquarium, Mafia Wars 2, Monster World,
 14 Poppit! Sprint, Ravenwood Fair, Zoo World and/or Zombie Lane.
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16 **COUNT I**

17 **INFRINGEMENT OF U.S. PATENT NO. 7,076,445**

18 25. United States Patent No. 7,076,445 (“the ‘445 patent”), entitled “SYSTEM AND
 19 METHODS FOR OBTAINING ADVANTAGES AND TRANSACTING THE SAME IN A
 20 COMPUTER GAMING ENVIRONMENT,” issued on July 11, 2006.
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22 26. GAMETEK is the present assignee of the entire right, title and interest in and to the
 23 ‘445 patent, including all rights to sue for past and present infringement. Accordingly, GAMETEK
 24 has standing to bring this lawsuit for infringement of the ‘445 patent.
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26 27. The various claims of the ‘445 patent cover, *inter alia*, a method of managing a game
 27 comprising displaying a plurality of game objects, determining if the user has sufficient
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1 consideration to purchase a game object, presenting an offer to purchase the game object dependent
2 upon parameters comprising the tracked activity of the user and the indication that the user has
3 sufficient consideration, permitting the user to purchase the game object without interrupting the
4 game, supplying the purchased game object to the user without interrupting the game, and
5 incorporating the game object into the game.
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7 28. On information and belief, FACEBOOK has been and now is infringing, including
8 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
9 game objects, determining if the user has sufficient consideration to purchase a game object,
10 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
11 activity of the user and the indication that the user has sufficient consideration, permitting the user to
12 purchase the game object without interrupting the game, supplying the purchased game object to the
13 user without interrupting the game, and incorporating the game object into the game. On information
14 and belief, such methods comprise Barn Buddy, Bingo Blitz, Car Town, CityVille, Crime City,
15 Empires and Allies, FarmVille, Fish World, Happy Aquarium, Mafia Wars 2, Monster World,
16 Poppit! Sprint, Ravenwood Fair, Zoo World and/or Zombie Lane.
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19 29. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
20 known as Barn Buddy.
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23 30. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
24 known as Bingo Blitz.
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27 31. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
28 known as Car Town.
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31 32. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
32 known as CityVille.
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1 33. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
2 known as Crime City.

3 34. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
4 known as Empires and Allies.

5 35. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
6 known as FarmVille.

7 36. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
8 known as Fish World.

9 37. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
10 known as Happy Aquarium.

11 38. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
12 known as Mafia Wars 2.

13 39. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
14 known as Monster World.

15 40. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
16 known as Poppit! Sprint.

17 41. Further, on information and belief, FACEBOOK makes, uses, and hosts the game
18 known as Ravenwood Fair.

19 42. Further, on information and belief, FACEBOOK makes uses, and hosts the game
20 known as Zoo World.

21 43. Further, on information and belief, FACEBOOK makes uses, and hosts the game
22 known as Zombie Lane.

1 44. On information and belief, SIX WAVES has been and now is infringing, including
2 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
3 game objects, determining if the user has sufficient consideration to purchase a game object,
4 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
5 activity of the user and the indication that the user has sufficient consideration, permitting the user to
6 purchase the game object without interrupting the game, supplying the purchased game object to the
7 user without interrupting the game, and incorporating the game object into the game. On information
8 and belief, such methods comprise Ravenwood Fair.

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10 45. Further, on information and belief, SIX WAVE makes, uses, and hosts the game
11 known as Ravenwood Fair.

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13 46. On information and belief, BIG VIKING has been and now is infringing, including
14 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
15 game objects, determining if the user has sufficient consideration to purchase a game object,
16 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
17 activity of the user and the indication that the user has sufficient consideration, permitting the user to
18 purchase the game object without interrupting the game, supplying the purchased game object to the
19 user without interrupting the game, and incorporating the game object into the game. On information
20 and belief, such methods comprise Fish World.

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22 47. Further, on information and belief, BIG VIKING makes, uses, and hosts the game
23 known as Fish World.

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25 48. On information and belief, BUFFALO STUDIOS has been and now is infringing,
26 including jointly, the '445 patent by actions comprising managing a game comprising displaying a
27 plurality of game objects, determining if the user has sufficient consideration to purchase a game

1 object, presenting an offer to purchase the game object dependent upon parameters comprising the
2 tracked activity of the user and the indication that the user has sufficient consideration, permitting
3 the user to purchase the game object without interrupting the game, supplying the purchased game
4 object to the user without interrupting the game, and incorporating the game object into the game.
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6 On information and belief, such methods comprise Bingo Blitz.

7 49. Further, on information and belief, BUFFALO STUDIOS makes, uses, and hosts the
8 game known as Bingo Blitz.

9 50. On information and belief, CIE has been and now is infringing, including jointly, the
10 '445 patent by actions comprising managing a game comprising displaying a plurality of game
11 objects, determining if the user has sufficient consideration to purchase a game object, presenting an
12 offer to purchase the game object dependent upon parameters comprising the tracked activity of the
13 user and the indication that the user has sufficient consideration, permitting the user to purchase the
14 game object without interrupting the game, supplying the purchased game object to the user without
15 interrupting the game, and incorporating the game object into the game. On information and belief,
16 such methods comprise Car Town.

17 51. Further, on information and belief, CIE makes, uses, and hosts the game known as
18 Car Town.

19 52. On information and belief, CROWDSTAR has been and now is infringing, including
20 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
21 game objects, determining if the user has sufficient consideration to purchase a game object,
22 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
23 activity of the user and the indication that the user has sufficient consideration, permitting the user to
24 purchase the game object without interrupting the game, supplying the purchased game object to the
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1 user without interrupting the game, and incorporating the game object into the game. On information
2 and belief, such methods comprise Happy Aquarium.

3 53. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
4 known as Happy Aquarium.

5 54. On information and belief, EA has been and now is infringing, including jointly, the
6 '445 patent by actions comprising managing a game comprising displaying a plurality of game
7 objects, determining if the user has sufficient consideration to purchase a game object, presenting an
8 offer to purchase the game object dependent upon parameters comprising the tracked activity of the
9 user and the indication that the user has sufficient consideration, permitting the user to purchase the
10 game object without interrupting the game, supplying the purchased game object to the user without
11 interrupting the game, and incorporating the game object into the game. On information and belief,
12 such methods comprise Poppit! Sprint.

13 55. Further on information and belief, EA makes, uses, and hosts the game known as
14 Poppit! Sprint.

15 56. On information and belief, FUNZIO has been and now is infringing, including
16 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
17 game objects, determining if the user has sufficient consideration to purchase a game object,
18 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
19 activity of the user and the indication that the user has sufficient consideration, permitting the user to
20 purchase the game object without interrupting the game, supplying the purchased game object to the
21 user without interrupting the game, and incorporating the game object into the game. On information
22 and belief, such methods comprise Crime City.

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1 57. Further, on information and belief, FUNZIO makes, uses, and hosts the game known
2 as Crime City.

3 58. On information and belief, ROCKYOU has been and now is infringing, including
4 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
5 game objects, determining if the user has sufficient consideration to purchase a game object,
6 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
7 activity of the user and the indication that the user has sufficient consideration, permitting the user to
8 purchase the game object without interrupting the game, supplying the purchased game object to the
9 user without interrupting the game, and incorporating the game object into the game. On information
10 and belief, such methods comprise Zoo World.

11 59. Further, on information and belief, ROCKYOU makes, uses, and hosts the game
12 known as Barn Buddy.

13 60. On information and belief, THEBROTH has been and now is infringing, including
14 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
15 game objects, determining if the user has sufficient consideration to purchase a game object,
16 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
17 activity of the user and the indication that the user has sufficient consideration, permitting the user to
18 purchase the game object without interrupting the game, supplying the purchased game object to the
19 user without interrupting the game, and incorporating the game object into the game. On information
20 and belief, such methods comprise Barn Buddy.

21 61. Further, on information and belief, THEBROTH makes, uses, and hosts the game
22 known as Barn Buddy.

1 62. On information and belief, WOOGA has been and now is infringing, including
2 jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of
3 game objects, determining if the user has sufficient consideration to purchase a game object,
4 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
5 activity of the user and the indication that the user has sufficient consideration, permitting the user to
6 purchase the game object without interrupting the game, supplying the purchased game object to the
7 user without interrupting the game, and incorporating the game object into the game. On information
8 and belief, such methods comprise Monster World.

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10 63. Further, on information and belief, WOOGA makes, uses, and hosts the game known
11 as Monster World.

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13 64. On information and belief, ZYNGA has been and now is infringing, including jointly,
14 the '445 patent by actions comprising managing a game comprising displaying a plurality of game
15 objects, determining if the user has sufficient consideration to purchase a game object, presenting an
16 offer to purchase the game object dependent upon parameters comprising the tracked activity of the
17 user and the indication that the user has sufficient consideration, permitting the user to purchase the
18 game object without interrupting the game, supplying the purchased game object to the user without
19 interrupting the game, and incorporating the game object into the game. On information and belief,
20 such methods comprise FarmVille, Empires and Allies, Mafia Wars 2, and/or CityVille.

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22 65. Further, on information and belief, ZYNGA makes, uses, and hosts the game known
23 as Farmville.

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25 66. Further, on information and belief, ZYNGA makes, uses, and hosts the game known
26 as Empires and Allies.

67. Further, on information and belief, ZYNGA makes, uses, and hosts the game known as Mafia Wars 2.

68. On information and belief, DIGITAL CHOCOLATE has been and now is infringing, including jointly, the '445 patent by actions comprising managing a game comprising displaying a plurality of game objects, determining if the user has sufficient consideration to purchase a game object, presenting an offer to purchase the game object dependent upon parameters comprising the tracked activity of the user and the indication that the user has sufficient consideration, permitting the user to purchase the game object without interrupting the game, supplying the purchased game object to the user without interrupting the game, and incorporating the game object into the game. On information and belief, such methods comprise Zombie Lane.

69. Further, on information and belief, DIGITAL CHOCOLATE makes, uses, and hosts the game known as Zombie Lane.

PRAYER FOR RELIEF

WHEREFORE, GAMETEK respectfully requests that this Court enter:

1. A judgment in favor of GAMETEK that Defendants have infringed the '445 patent;
2. A permanent injunction enjoining Defendants, and their officers, directors, employees, agents, affiliates and all others acting in active concert therewith from infringing the '445 patent;

3. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to GAMETEK its reasonable attorneys' fees;

4. Any and all other relief to which GAMETEK may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: May 21, 2012

Respectfully submitted,

COLLINS, EDMONDS, POGORZELSKI,
SCHLATHER & TOWER, PLLC

/s/ John J. Edmonds
John J. Edmonds

Attorney for Plaintiff
GAMETEK LLC

CERTIFICATE OF SERVICE

I, John J. Edmonds, declares as follows:

I am over the age of eighteen years and am not a party to this action. I am employed at the law firm of Collins, Edmonds, Pogorzelski, Schlather & Tower, PLLC and I am a member of the bar of this Court. I hereby certify that on May 21, 2012, the following document was transmitted via the Court's Electronic Case Filing (ECF) system:

**FIRST AMENDED COMPLAINT FOR
INFRINGEMENT OF U.S. PATENT NO. 7,076,445**

I further certify that the attached document was sent on May 21, 2012, via the Court's Electronic Case Filing (ECF) system to all counsel of record in this action.

May 21, 2012

Respectfully Submitted,

/s/ John J. Edmonds
John J. Edmonds – LEAD COUNSEL
E-mail: jedmonds@cepiplaw.com

ATTORNEY FOR GAMETEK LLC.